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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,011	09/12/2003	Michael A. Wisniewski	061151-9008-00	6806

23409 7590 10/26/2005

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EXAMINER
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HESS, DOUGLAS A

ART UNIT	PAPER NUMBER
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3651

DATE MAILED: 10/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/661,011

Applicant(s)

WISNIEWSKI, MICHAEL A.

Examiner

Douglas A. Hess

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-8 and 10-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-23 is/are allowed.
- 6) ☒ Claim(s) 2-8, 10, 13-15, 18-20 and 24-30 is/are rejected.
- 7) ☐ Claim(s) 11, 12, 16 and 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: 2 pages from US Pat 5,088,883

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 2-8, 10, 13-15, 18-20, 24-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Focke et al. (US Pat. 5,088,883).

See the attached cover sheet and drawing figure 3 of Focke et al. With markings made by the examiner depicting the claimed features.

RE claim 26, Focke et al. Would inherently contain a generic shroud as claimed although he does not disclose one.

RE method claims 27-30, the Focke et al. Device is capable of performing each and every method step as claimed.

***Allowable Subject Matter***

3. Claims 11, 12, 16, and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. Claims 21-23 allowed.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. Applicant's arguments with respect to the rejected claims have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas A. Hess whose telephone number is 571-272-6915. The examiner can normally be reached on M-Thurs 5:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Douglas A Hess  
Primary Examiner  
Art Unit 3651

10/24/05

DAH  
October 24, 2005



US00508883A

## United States Patent [19]

Focke et al.

[11] Patent Number: 5,088,883

[45] Date of Patent: Feb. 18, 1992

[54] APPARATUS FOR LIFTING ARTICLES, ESPECIALLY PACKS, FOR FORMING DISCHARGEABLE STACKS

[75] Inventors: Heinz Focke, Verden; Uwe Dreyer, Wuppertal, both of Fed. Rep. of Germany

[73] Assignee: Focke & Co. (GmbH & Co.), Verden, Fed. Rep. of Germany

[21] Appl. No.: 519,986

[22] Filed: May 1, 1990

[30] Foreign Application Priority Data

May 12, 1989 [DE] Fed. Rep. of Germany ..... 3915600

[51] Int. Cl.<sup>5</sup> ..... B65G 57/30

[52] U.S. Cl. .... 414/795; 74/51; 74/52; 74/106; 74/665 GA; 414/790.3; 414/795.3

[58] Field of Search ..... 74/665 GA, 51, 52, 106; 414/288.8, 790.3, 795, 795.3, 797.7

[56] References Cited

## U.S. PATENT DOCUMENTS

3,387,719 6/1968 Moore ..... 414/795 X

4,955,783 9/1990 Grazia ..... 414/795

## FOREIGN PATENT DOCUMENTS

1127810 4/1962 Fed. Rep. of Germany .

1586258 4/1970 Fed. Rep. of Germany .

2206437 8/1973 Fed. Rep. of Germany .

2713205 9/1978 Fed. Rep. of Germany .

0100025 6/1983 Japan ..... 414/795

1352664 5/1974 United Kingdom .

Primary Examiner—Robert J. Spar

Assistant Examiner—Janice Krizek

Attorney, Agent, or Firm—Sughrue, Mion, Zinn, Macpeak & Seas

## [57] ABSTRACT

An apparatus has on each side of a conveyor (12) a rotating conveying segment (16, 17) for lifting packs from the conveyor (12) to form a stack (13) of packs (11). An oscillating holding segment (18, 19) oscillates about a common axis with each conveying segment (16, 17) but at a lesser radial distance from the axis than the conveying segment. The holding segments hold the stack (13), but separate to permit a new pack (11) to be added to the bottom of the stack.

9 Claims, 4 Drawing Sheets



